

No. 10136

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United States 3  
Circuit Court of Appeals  
For the Ninth Circuit.

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J. HOWARD EDGERTON and CLIFFORD W.  
TWOMBLY,

Appellants,

vs.

UNITED STATES OF AMERICA,

Appellee.

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SUPPLEMENTAL  
Transcript of Record  
In Four Volumes  
VOLUME IV  
Pages 1193 to 1210

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Upon Appeal from the District Court of the United States  
for the Southern District of California,  
Central Division

FILED

JUL 28 1943

PAUL P. O'BRIEN,



No. 10136

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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At a stated term, to wit: The February Term, A. D. 1942, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Saturday the fourth day of April in the year of our Lord one thousand nine hundred and forty-two.

Present: The Honorable Ralph E. Jenney, District Judge.

No. 14,943-RJ Crim.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

J. HOWARD EDGERTON, et al.,

Defendants.

This cause coming on for further trial by jury of defendants J. Howard Edgerton, Russell, W. Starr, Edward C. Thomas, Joseph L. Smale, Alfred R. Ireland, Clifford W. Twombly, and Charles L. Cronk; Walter M. Campbell, Assistant U. S. Attorney, appearing as counsel for the Government; Gordon Lawson, Esq., appearing as counsel for Defendants Edgerton and Ireland; J. J. Irwin, Esq., appearing as counsel for Defendants Starr, Thomas, and Smale; Francis D. Adams and Ardene D. Boller, Esqs, appearing as counsel for Defendant Twombly; J. Lamar Butler, Esq., appearing as counsel for Defendant Cronk; and A.

Wahlberg, Court Reporter, being present and reporting the proceedings; and all of the said defendants being present and the jury being absent,

It is stipulated by all counsel that the jury may be sent to lunch now without being brought into court and that the Court may deliver to the jury the transcript of all of the Court's instructions heretofore given.

The Court adjourns until such time as the jury returns a verdict.

At 5:30 P. M. court reconvenes herein, and all being present as before, including the defendants, the jury returns into court. The Court inquires of the foreman if there is something they wish to ask the Court. The jury, though their foreman, state they have agreed upon verdicts as to three of the defen- [1\*] dants only. The Court directs the jury to hand the verdicts to it, and the jury having done so, the Court directs the clerk to read them; whereupon, the clerk reads them, and the Court orders that the said verdicts be filed and entered herein, being as follows:

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\* Page numbering appearing at foot of page of Original Supplemental Transcript of Record.



In The District Court of the United States, Southern District of California, Central Division

No. 14,943-RJ Criminal

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CHARLES L. CRONK, et al.,

Defendants.

VERDICT OF THE JURY AS TO  
DEFENDANT CHARLES L. CRONK

We, the Jury in the above entitled cause, find the defendant, Charles J. Cronk, not guilty, as charged in the first count of the Indictment; and not guilty, as charged in the second count of the Indictment; and not guilty, as charged in the fourth count of the Indictment; and not guilty, as charged in the fifth count of the Indictment; and not guilty, as charged in the sixth count of the Indictment; and not guilty, as charged in the seventh count of the Indictment; and not guilty, as charged in the eighth count of the Indictment; and not guilty, as charged in the ninth count of the Indictment; and not guilty, as charged in the tenth count of the Indictment; and

not guilty, as charged in the eleventh count of the Indictment; and

not guilty, as charged in the twelfth count of the Indictment; and

not guilty, as charged in the thirteenth count of the Indictment; and [2]

not guilty, as charged in the fourteenth count of the Indictment; and

not guilty, as charged in the fifteenth count of the Indictment.

FRANK A. MORGAN,  
Foreman of the Jury.

Dated: Los Angeles, Calif.,  
April 4, 1942.

[Endorsed]: Filed Apr. 4, 1942.

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In The District Court of the United States, Southern District of California, Central Division

No. 14,943-RJ Criminal

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CLIFFORD W. TWOMBLY, et al.,

Defendants.

VERDICT OF THE JURY AS TO  
DEFENDANT CLIFFORD W. TWOMBLY

We, the Jury in the above entitled cause, find the defendant, Clifford W. Twombly, guilty as

charged in the first count of the Indictment; and  
guilty, as charged in the second count of the Indictment; and  
guilty, as charged in the fourth count of the Indictment; and  
guilty, as charged in the fifth count of the Indictment; and  
guilty, as charged in the sixth count of the Indictment; and  
guilty, as charged in the seventh count of the Indictment; and  
guilty, as charged in the eighth count of the Indictment; and  
guilty, as charged in the ninth count of the Indictment; and [3]  
not guilty, as charged in the tenth count of the Indictment; and  
not guilty, as charged in the eleventh count of the Indictment; and  
not guilty, as charged in the twelfth count of the Indictment; and  
not guilty, as charged in the thirteenth count of the Indictment; and  
not guilty, as charged in the fourteenth count of the Indictment; and  
not guilty, as charged in the fifteenth count of the Indictment.

FRANK A. MORGAN,  
Foreman of the Jury.

Dated: Los Angeles, Calif., April 4, 1942.

[Endorsed]: Filed Apr. 4, 1942.

In The District Court of the United States, South-  
ern District of California, Central Division

No. 14,943-RJ Criminal

UNITED STATES OF AMERICA,

Plaintiff,

vs.

J. HOWARD EDGERTON, et al.,

Defendants.

VERDICT OF THE JURY AS TO  
DEFENDANT J. HOWARD EDGERTON

We, the jury in the above-entitled cause, find the  
defendant, J. Howard Edgerton, guilty as charged  
in the first count of the Indictment; and  
guilty, as charged in the second count of the In-  
dictment; and  
guilty, as charged in the fourth count of the In-  
dictment; and  
guilty, as charged in the fifth count of the In-  
dictment; and [4]  
guilty, as charged in the sixth count of the Indict-  
ment; and  
guilty, as charged in the seventh count of the In-  
dictment; and  
guilty, as charged in the eighth count of the In-  
dictment; and  
guilty, as charged in the ninth count of the In-  
dictment; and  
not guilty, as charged in the tenth count of the  
Indictment; and

guilty, as charged in the eleventh count of the Indictment; and

guilty, as charged in the twelfth count of the Indictment; and

guilty, as charged in the thirteenth count of the Indictment; and

guilty, as charged in the fourteenth count of the Indictment; and

not guilty, as charged in the fifteenth count of the Indictment.

FRANK A. MORGAN

Foreman of the Jury.

Dated: Los Angeles, Calif.,

April 4, 1942.

[Endorsed]: Filed, Apr. 4, 1942.

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Polling of the jury is waived as to Defendants Cronk and Twombly. The jury is polled as to the verdict on Defendant Edgerton and each juror states that it is his verdict.

It is ordered that Defendant Charles L. Cronk be, and he is, discharged and his bond, if any, be, and it is, exonerated. It is ordered that whatever bail Defendants Clifford W. Twombly and J. Howard Edgerton may have may remain in effect pending further order of the Court. [5]

The jury, through their foreman, further state that they have agreed upon certain counts as to each of the remaining defendants, but are unable to agree as to certain other counts as to each of the

said defendants. The Court inquires of each juror as to whether in his opinion they could not come to an agreement if given more time for deliberation, and each juror states that he does not believe they would be able to come to an agreement. Whereupon, the Court directs the jury to retire (in the custody of the bailiffs) and await the instructions of the Court.

The jury retires to the jury room, and, in their absence, the Court and respective counsel discuss the situation and it is stipulated that the jury be not required to deliberate further.

The Court instructs the jury, through the bailiff, to bring in their verdicts as to the counts agreed upon and to make a return of "Disagreed" as to those counts upon which they have been unable to agree.

At 5:50 P. M. the jury returns into court, and all being present as before, and all the defendants being present, the Court directs the jury to hand their verdicts to it, and the jury, through their foreman, hand their verdicts to the Court and the Court directs the clerk to read said verdicts; whereupon, the clerk reads them, and it is ordered that the said verdicts be filed and entered herein, to wit:



In The District Court of the United States, Southern District of California, Central Division

No. 14,943-RJ Criminal

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RUSSELL W. STARR, et al.,

Defendants.

VERDICT OF THE JURY AS TO  
DEFENDANT RUSSELL W. STARR

We, the Jury in the above-entitled cause, find the defendant, Russell W. Starr, disagreed, as charged in the first count of the Indictment; and disagreed, as charged in the second count of the Indictment; and disagreed, as charged in the fourth count of the Indictment; and [6] disagreed, as charged in the fifth count of the Indictment; and disagreed, as charged in the sixth count of the Indictment; and disagreed, as charged in the seventh count of the Indictment; and disagreed, as charged in the eighth count of the Indictment; and disagreed, as charged in the ninth count of the Indictment; and not guilty, as charged in the tenth count of the Indictment; and

disagreed, as charged in the eleventh count of the  
Indictment; and  
disagreed, as charged in the twelfth count of the  
Indictment; and  
disagreed, as charged in the thirteenth count of the  
Indictment; and  
disagreed, as charged in the fourteenth count of  
the Indictment; and  
not guilty, as charged in the fifteenth count of the  
Indictment..

FRANK A. MORGAN

Foreman of the Jury.

Dated: Los Angeles, Calif.,

April 4, 1942.

[Endorsed]: Filed, Apr. 4, 1942. [7]

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In the District Court of the United States Southern  
District of California, Central Division

No. 14,943-RJ Criminal

UNITED STATES OF AMERICA,

Plaintiff,

vs.

EDWARD C. THOMAS, ET AL.,

Defendants.

VERDICT OF THE JURY AS TO DEFENDANT  
EDWARD C. THOMAS

We, the Jury in the above-entitled cause, find the  
defendant, Edward C. Thomas, disagreed, as charged  
in the first count of the Indictment; and



disagreed, as charged in the second count of the  
Indictment; and  
disagreed, as charged in the fourth count of the  
Indictment; and  
disagreed, as charged in the fifth count of the In-  
dictment; and  
disagreed, as charged in the sixth count of the In-  
dictment; and  
disagreed, as charged in the seventh count of the  
Indictment; and  
disagreed, as charged in the eighth count of the  
Indictment; and  
disagreed, as charged in the ninth count of the In-  
dictment; and  
not guilty, as charged in the tenth count of the  
Indictment; and  
disagreed, as charged in the eleventh count of the  
Indictment  
disagreed, as charged in the twelfth count of the  
Indictment; and  
disagreed, as charged in the thirteenth count of the  
Indictment; and [8]  
disagreed, as charged in the fourteenth count of the  
Indictment; and  
not guilty, as charged in the fifteenth count of the  
Indictment.

FRANK A. MORGAN

Foreman of the Jury.

Dated: Los Angeles, Calif., April 4, 1942.

[Endorsed]: Filed, Apr. 4, 1942.

In the District Court of the United States Southern  
District of California, Central Division

No. 14-943-RJ Criminal

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSEPH L. SMALE, ET AL.,

Defendants.

VERDICT OF THE JURY AS TO DEFENDANT  
JOSEPH L. SMALE

We, the jury in the above-entitled cause, find the defendant Joseph L. Smale, disagreed, charged in the first count of the Indictment; and disagreed, as charged in the second count of the Indictment; and disagreed, as charged in the fourth count of the Indictment; and disagreed, as charged in the fifth count of the Indictment; and disagreed, as charged in the sixth count of the Indictment; and disagreed, as charged in the seventh count of the Indictment; and disagreed, as charged in the eighth count of the Indictment; and disagreed, as charged in the ninth count of the Indictment; and [9] not guilty, as charged in the tenth count of the Indictment; and

disagreed, as charged in the eleventh count of the  
Indictment; and  
disagreed, as charged in the twelfth count of the  
Indictment; and  
disagreed, as charged in the thirteenth count of the  
Indictment; and  
disagreed, as charged in the fourteenth count of the  
Indictment; and  
not guilty, as charged in the fifteenth count of the  
Indictment.

FRANK A. MORGAN

Foreman of the Jury.

Dated: Los Angeles, Calif., April 4, 1942.

[Endorsed]: Filed, Apr. 4, 1942.

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In the District Court of the United States Southern  
District of California, Central Division

No. 14,943-RJ Criminal

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ALFRED R. IRELAND, ET AL.,

Defendants.

VERDICT OF THE JURY AS TO DEFENDANT  
ALFRED R. IRELAND

We, the Jury in the above-entitled cause, find the  
defendant, Alfred R. Ireland, disagreed, as charged  
in the first count of the Indictment; and

disagreed, as charged in the second count of the  
Indictment; and  
disagreed, as charged in the fourth count of the  
Indictment; and  
disagreed, as charged in the fifth count of the In-  
dictment; and  
disagreed, as charged in the sixth count of the  
Indictment; and [10]  
disagreed, as charged in the seventh count of the  
Indictment; and  
disagreed, as charged in the eighth count of the  
Indictment; and  
disagreed, as charged in the ninth count of the  
Indictment; and  
not guilty, as charged in the tenth count of the  
Indictment; and  
disagreed, as charged in the eleventh count of the  
Indictment; and  
disagreed, as charged in the twelfth count of the  
Indictment; and  
disagreed, as charged in the thirteenth count of the  
Indictment; and  
disagreed, as charged in the fourteenth count of the  
Indictment; and  
not guilty, as charged in the fifteenth count of the  
Indictment.

FRANK A. MORGAN

Foreman of the Jury.

Dated: Los Angeles, Calif., April 4, 1942.

[Endorsed]: Filed, Apr. 4, 1942.

Polling of the jury as to said verdicts is waived.

The jury is discharged and leaves the court room.

It is stipulated and ordered that the bonds of Defendants Starr, Thomas, Smale, and Ireland, be, and they hereby are, exonerated and the said defendants are released on their own recognizance, pending further order of the Court.

Attorney Lawson, on behalf of Defendant Edgerton, moves for judgment of not guilty on counts 1, 2, 4, 5, 6, 7, 8, 9, 11, 12, 13, and 14 of the Indictment, notwithstanding the verdict of the jury and states the grounds in support thereof. It is ordered that the motion be, and it is, denied and exception noted.

[11]

Attorney Adams, on behalf of Defendant Twombly, moves for judgment of not guilty on counts 1, 2, 4, 5, 6, 7, 8, and 9 of the Indictment notwithstanding the verdict of the jury. It is ordered that the motion be, and it is, denied, and exception noted.

Attorney Lawson, on behalf of Defendant Edgerton, moves the Court for a new trial on counts 1, 2, 4, 5, 6, 7, 8, 9, 11, 12, 13, and 14 of the Indictment, and states the grounds in support thereof and further states formal motion will be filed to conform with the rules.

Attorney Adams, on behalf of Defendant Twombly, moves the Court for a new trial on counts 1, 2, 4, 5, 6, 7, 8, and 9 of the Indictment, and states the grounds in support thereof and further states that formal motion will be filed to conform to the rules.

It is ordered that said two motions for new trial be placed on the calendar of Monday, April 13, 1942, at 9:30 A. M. for hearing. [12]

United States of America  
District Court of the United States  
Southern District of California

Clerk's Office No.....

UNITED STATES OF AMERICA

vs.

J. HOWARD EDGERTON, ET AL

SUPPLEMENTAL PRAECIPE

To the Clerk of Said Court:

Sir:

Please issue supplemental transcript of record to  
the Circuit Court of Appeals as follows:

Minute orders 4/4/42.

OTTO CHRISTENSEN,

Attorney for Defendant [13]



United States District Court, Southern District of  
California, Central Division

No. 14943-RJ—Crim.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

J. HOWARD EDGERTON, ET AL.,

Defendants.

CERTIFICATE OF CLERK TO SUPPLE-  
MENTAL TRANSCRIPT

I, Edmund L. Smith, Clerk of the District Court of the United States for the Southern District of California, do hereby certify that the foregoing Supplemental Record pages numbers from 1 to 13 inclusive contain full, true and correct copies of Minute Order Entered April 14, 1942 and Praecipe for Supplemental Transcript which constitutes the Supplemental Transcript of Record on appeal to the Circuit Court of Appeals for the Ninth Circuit.

I further certify that my fees for preparing, comparing, correcting and certifying the foregoing supplemental transcript amount to \$6.20 which sum has been paid to me by Appellant Edgerton.

Witness my hand the seal of said District Court this 7 day of July, 1943.

EDMUND L. SMITH,

Clerk

By THEODORE HOCKE

[Seal]

Deputy Clerk.

[Endorsed]: No. 10136 United States Circuit Court of Appeals for the Ninth Circuit. J. Howard Edgerton and Clifford W Twombly, Appellants, vs. United States of America, Appellee. Supplemental Transcript of Record. Upon Appeal from the District Court of the United States for the Southern District of California, Central Division.

Filed July 9, 1943.

PAUL P. O'BRIEN

Clerk of the United States Circuit Court of Appeals  
for the Ninth Circuit.